

CHAPTER 12 PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The public employment relations board adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules on Agency Procedure relating to public records and fair information practices which is printed in the first volume of the Iowa Administrative Code.

621—12.1(20,22) Definitions. As used in this chapter:

"Agency" in these rules means the public employment relations board.

"Routine use" in these rules means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected or is maintained. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

621—12.3(20,22) Requests for access to records.

12.3(1) Location of records. In lieu of the words "(insert agency head)", insert the words "Chairperson, Public Employment Relations Board, 514 East Locust Street, Suite 202, Des Moines, Iowa 50309". The second and third sentences of subrule 12.3(1) are not adopted.

12.3(2) Office hours. In lieu of the words "all customary office hours, which are (insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)", insert the words "the agency's customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays".

12.3(7) Fees.

c. Supervisory fee. Delete the words "when the supervision time required is in excess of (specify time period)" and the words "(An agency wishing to deal with search fees authorized by law should do so here.)"

621—12.6(20,22) Procedure by which additions, dissents or objections may be entered into certain records. In lieu of the words "custodian or to (designate office)", insert the words "chairperson of the agency".

621—12.9(20,22) Disclosures without the consent of the subject.

12.9(1) Open records are routinely disclosed without the consent of the subject.

12.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. The following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 621—12.1(20,22) or in any notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and identifying the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual, if a notice of the disclosure is transmitted to the last known address of the subject.

- e. To the legislative fiscal bureau under Iowa Code section 2.52.
- f. Disclosures in the course of employee disciplinary proceedings.
- g. In response to a court order or subpoena.

621—12.10(20,22) Routine use. To the extent allowed by law, the following uses are considered routine uses of all agency records:

12.10(1) Disclosure to those officers, employees and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

12.10(2) Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

12.10(3) Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

12.10(4) Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

12.10(5) Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

12.10(6) Any disclosure specifically authorized by the statute under which the record was collected or maintained.

621—12.11(20,22) Consensual disclosure of confidential records.

12.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 621—12.7(20,22).

12.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may to the extent permitted by law be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

621—12.12(20,22) Release to subject.

12.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 621—12.6(20,22). However, the agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (see Iowa Code section 22.7(5))

d. As otherwise authorized by law.

12.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

621—12.13(20,22) Availability of records.

12.13(1) General. Agency records are open for public inspection and copying unless otherwise provided by rule or law.

12.13(2) Confidential records. The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 621—12.4(20,22). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 12.4(3).

12.13(3) Chart.* This subrule lists the agency's records in chart form and provides in:

- a. Column one, a description of the nature and content of the record or record system.
- b. Column two, whether the record or record systems are open for public inspection, confidential, or are partly open and partly confidential.
- c. Column three, the legal basis for asserting a record or record system is confidential in whole or in part.
- d. Column four, whether the record or records can be accessed by a personal identifier.
- e. Column five, a description of the nature and extent of personal information that can be found in the record or record system, if any.
- f. Column six, the legal authority, where appropriate, relied upon by the agency for collection of personally identifiable information.
- g. Column seven, the method of storage of the record or record system.

621—12.14(20,22) Data processing systems. None of the data processing systems used by the agency permit the electronic or mechanical comparison of personally identifiable information in one record system with personally identifiable information in another record system.

621—12.15(20,22) Applicability. This chapter does not:

1. Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.
2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.
3. Govern the maintenance or disclosure of, notification of or access to, records by the regulations of another agency.
4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.
5. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the agency.

*See chart following rule 621—12.15(20,22).